

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA**

**Alexandria Division**

RITLABS, S.R.L.,

Plaintiff/Counter-Defendant,

v.

RITLABS, INC., and SERGHEI DEMCENKO,

Defendants/Counter-Claimants.

Case No.: 1:12CV215 AJT/IDD

Hon. Ivan D. Davis

**DEFENDANTS' REPLY TO PLAINTIFF'S MEMORANDUM IN OPPOSITION TO  
MOTION TO STRIKE PLAINTIFF'S SEOND MOTION FOR SUMMARY  
JUDGMENT AND FOR SANCTIONS**

In its opposition, Plaintiff makes three arguments, all of which are invalid.

First, Plaintiff asserts that Plaintiff is really two parties because counterclaims have been filed in this proceeding. Therefore, Plaintiff argues, because Local Civil Rule 56(c) states that “a party shall not file separate motions for summary judgment addressing separate grounds for summary judgment,” Plaintiff can file two summary judgment motions because it is two parties. (Emphasis added.) The Plaintiff’s ruse to get around the page limitation is not even close to a reasonable argument. Moreover, if Plaintiff’s argument is accepted, nearly every party will be entitled to file two summary judgment motions because counterclaims are extremely common.

Second, Plaintiff asserts that the number and complexity of claims require 55 pages of briefing. However, if Plaintiff believed that the complexity of the case justified the need for additional pages, Local Civil Rule 56(c) states that Plaintiff could have sought leave of Court before filing its motion. Plaintiff never did so, apparently following the principle that it is easier to seek forgiveness than permission. Plaintiff’s strategy is clear. Plaintiff obviously knew that it

could have sought an extension *before* filing its motion but doing so would run the risk that its extension request would be denied or limited. So Plaintiff instead clearly calculated that it would be better to go ahead and file 55 pages of summary judgment briefing without prior approval and take its chances thereafter, apparently believing that the Court would not dare strike its motion once it was filed. This type of behavior, if allowed, could lead to a loss of respect for this Court's very clear rules. For that reason as well, Defendants' motion should be granted.

Plaintiff's third and last argument is that Plaintiff's motion is so overwhelmingly strong that it would be unfair to limit Plaintiff to the Court's page limit. Plaintiff's puffing as to the strength of its motion is baseless and Defendants' will be demonstrating in their opposition why both of Plaintiff's motions should be denied because of clear disputes of fact. Regardless, a party's self-serving belief as to the strength of its motion has absolutely nothing to do with whether or not it should be allowed to ignore the page limits set by the Court.

Plaintiff's conduct is egregious (especially on the heels of its past meritless motion to have Defendants' counsel dismissed) and merits striking of the second summary judgment motion and sanctions. However, in the event that the Court does allow Plaintiff to submit more than 30 pages for summary judgment purposes, Defendants' respectfully request that Defendants be granted a similar page extension so that they have a fair opportunity to respond to both of Plaintiff's motions in a single opposition brief, given that all of the claims in this case arise under the same set of facts.

Respectfully submitted,

Dated: July 5, 2012

By: /s/  
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Ritlabs, Inc. and Sergei Demcenko

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 5<sup>th</sup> day of July, 2012, I will electronically file the foregoing **DEFENDANTS' REPLY TO PLAINTIFF'S MEMORANDUM IN OPPOSITION TO MOTION TO STRIKE PLAINTIFF'S SECOND MOTION FOR SUMMARY JUDGMENT AND FOR SANCTIONS** with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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\_\_\_\_\_/s/\_\_\_\_\_  
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